

Remarks

Although we do not acquiesce to the rejection of claims 8, 9, and 18, in order to expedite prosecution, we have cancelled claims 8, 9, and 18. We have withdrawn claims 21 – 43 and added claims 44 – 47. We amended claim 1 to include the limitation of a recycle loop with a secondary processor and the structural connections of sources of the extractor fluids and the sample fluid, as required by the examiner. Upon entering the amendments, claims 1 – 7, 10 – 17, 19 – 20, and 44 – 47 will be pending in the application.

We acknowledge the Examiner's indication that claims 8 and 9 would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Thus, although we do not acquiesce to the Examiner's arguments regarding these claims, in order to expedite prosecution, we have rewritten claim 8 as new independent claim 46, including the limitations of claim 1. In addition, new claim 46 includes the structural connections of sources of the extractor fluids and the sample fluid, as required by the examiner. New claim 47, dependent on claim 46, replaces original claim 9.

Rejections under 35 U.S.C. § 102

The Examiner rejected claims 1 – 7, 10, 11, 14, and 15 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0009096 (herein Wellman). Wellman is concerned with treating blood with a single-pass contact between the blood and a dialysis fluid. Wellman does not teach recycling of the dialysis fluid.

Thus, Wellman does not anticipate claim 1 as now amended. More specifically, Wellman does not disclose

... a recycle loop including a secondary processor, wherein the recycle loop receives a used extractor fluid including the first and second extractor fluids exiting the extraction channel through the first and third exit channels, respectively, the secondary processor generates a processed extractor fluid by removing components from at least a portion of the used extractor fluid, and the recycle

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loop returns at least a portion of the processed extractor fluid to the extraction channel through the first and third inlet channels

as now recited in claim 1. Accordingly, claim 1, and all claims dependent thereon, are patentable over the cited reference.

Rejections under 35 U.S.C. § 103

The Examiner also rejected claims 1 – 7, 10 – 14, and 16 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,948,684 (herein Weigl et al.) in view of U.S. Patent Application Publication No. US 2003/0034306 (herein Schulte et al.). Applicants disagree. Neither of these references (alone or in combination) teach or suggest

... a recycle loop including a secondary processor, wherein the recycle loop receives a used extractor fluid including the first and second extractor fluids exiting the extraction channel through the first and third exit channels, respectively, the secondary processor generates a processed extractor fluid by removing components from at least a portion of the used extractor fluid, and the recycle loop returns at least a portion of the processed extractor fluid to the extraction channel through the first and third inlet channels

as required by claim 1. Claims 2 – 7, 10 – 14, and 16 depend from claim 1. Accordingly, claim 1, and all claims dependent thereon, are nonobvious in view of the cited references.

Although all claims are believed to be patentable for the reasons stated above, we reserve the right to address the lack of motivation to combine the cited references as well as the lack of expectation of success in combining the cited references in the future.

As the application is now believed to be in condition for allowance, issuance of a Notice of Allowance is requested.

The Commissioner is hereby authorized to charge any fee deficiency associated with this submission, or credit any overpayment to Deposit Account No. 08-0219.

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In the event that an extension of time is required, or that may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of which is required to make this response timely, and is hereby authorized to charge any fee for such, to deposit account number 08-0219.

Respectfully submitted,



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